



19 SEP 2006

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In re Application of	:	
SILVERBROOK, Kia et al.	:	
Application No.: 10/510,000	:	DECISION
PCT No.: PCT/AU02/00765	:	
Int. Filing Date: 13 June 2002	:	ON PETITION UNDER
Priority Date: 12 April 2002	:	
Docket No.: YU182US	:	37 CFR 1.137(b)
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This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 30 May 2006.

### **BACKGROUND**

On 13 June 2002, applicant filed an international application number PCT/AU02/00765. A copy of the international application was transmitted to the Office by the International Bureau on 23 October 2003. As such, the thirty month period for entering the national stage in the United States expired at midnight on 12 October 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by a check for \$1080. The transmittal letter indicated that \$1040 were for the basic national fee, while \$40 were for the recording of an assignment.

On 05 April 2005, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to pay the basic national fee by thirty months from the priority date.

On 05 May 2005, applicant submitted a petition to withdraw the holding of abandonment, indicating that applicant had paid \$1080 with its national phase submission.

On 30 May 2006, applicant submitted the instant petition under 37 CFR 1.137(b), indicating that applicant now realized that the basic national fee on 05 October 2004 was \$1100.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first

became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (2), (3) and (4) have been satisfied. Applicant has made the necessary statement of unintentional delay. The petition fee has been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. As to the basic national fee, the basic national fee owed is the basic national fee when the fee is paid. The structure of national fee payment has changed since October 2004. National Stage entry now requires the basic national fee, the search fee, the examination fee and a late fee if the search and examination fees are not paid by thirty months. The total of these new fees is \$1030.

### CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the National Phase Processing Branch of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 08 December 2004.



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